



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Human Resources
Department No.: 064
For Agenda Of: October 11, 2016
Placement: Administrative
Estimated Time:
Continued Item: No
If Yes, date from:
Vote Required: Four-fifths

TO: Board of Supervisors
FROM: Department Lori Gentles, Human Resources Director, 568-2816
Director(s)
Contact Info: Joseph Pisano, Employee Relations Manager, 568-2839
Rob Clark, Employee Relations Manager, 568-2829
SUBJECT: Paid Leave Time for Organ and Bone Marrow Donors

County Counsel Concurrence

As to form: N/A

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence: N/A

As to form: N/A

Recommended Actions:

That the Board of Supervisors:

- a) Find that granting paid leave to employees who serve as organ or bone marrow donors is in the best interest of the County, and does not amount to a gift of public funds, because it mirrors the requirement in State law for State employees and private businesses with 15 or more employees.
- b) Approves up to 240 hours of paid leave for an employee donating a kidney as part of a paired organ donation program after using 80 hours of accrued sick leave or vacation,
- c) Directs staff to meet and confer with labor groups develop a policy that will provide paid leave to County employees who are bone marrow and organ donors in alignment with California Labor Code Sections 1508 -1513 and return to the Board with a recommended policy; and
- d) Determines pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15378(b)(4) that the above action is a government fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment, and therefore is not a project subject to environmental review.

Summary Text: California Labor Code Sections 1508 -1513 (and Government Code 19991.11 for State employees) require that private employers with 15 or more employees and the State of California (as an employer) provide employees with paid leave not exceeding thirty (30) business days (240 hours) for organ and five (5) business days (40 hours) bone marrow donations. This law does not apply to Santa Barbara County or other public agencies in California, though some agencies have adopted similar policies for their employees.

The recommended actions would provide up to two hundred and forty (240) hours of paid leave as medically necessary, based on a physician's verification, to an employee who is undergoing surgery as an organ donor and is expected to require from three to six weeks to recover. In addition, the recommended actions would direct staff to develop a policy providing paid leave for future organ and bone marrow donors and to return to the Board with recommendations in the near future. This policy is a mandatory bargaining issue with recognized labor groups and employee relations staff will meet and confer with them as part of developing the policy.

Background:

A 17-year County employee is donating a kidney. The surgery had been scheduled for late October, but was moved up to September 28, 2016. Recovery is expected to take from 3 to 6 weeks.

Civil Service Rule 1409, Leave of Absence With Pay, states "The Board of Supervisors, by a four-fifths vote, may grant a leave of absence with pay when it first expressly finds that a leave of absence with pay is in the best interest of the County, and does not amount to a gift of public funds prohibited by the Constitution of the State of California."

Pursuant to Civil Service Rule 1409, staff believes encouraging life-saving bone marrow and organ donation by providing paid leave time for donors is in the best interest of the County, and would not amount to a gift of public funds, as state law expressly requires the practice for California State employees.

Although the law does not apply to the County, the relevant Labor Code Section permits an employer to require employees to use up to two weeks of accrued leave prior to being eligible for additional paid leave not chargeable to the employees' leave balances when the employees are organ donors. If the Board authorizes staff to develop a policy, staff recommends that an employee who is an organ donor be required to use eighty (80) hours of accrued leave balances first before being eligible for the maximum paid leave of absence of up to two hundred and forty (240) hours, but to include provisions to waive this requirement in cases of hardship

Fiscal and Facilities Impacts:

Budgeted: Yes.

Fiscal Analysis:

It is impossible to know exactly how many days the Public Health employee will need to be off from work to recuperate from organ donation surgery. Should the employee be out for the maximum possible 240 hours, the fully loaded cost would be approximately \$12,300.

Key Contract Risks: N/A

Staffing Impacts:

Legal Positions:
N/A

FTEs:
N/A

Special Instructions:

Attachments:

Authored by: Joseph Pisano and Robert Clark

cc: Mona Miyasato, County Executive Officer
Michael C. Ghizzoni, County Counsel